United Nations A/53/271/Corr.1

General Assembly

Distr.: General
9 November 1998

Original: English

Fifty-third session
Agenda item 112
Review of the efficiency of the administrative and financial functioning of the United Nations

Procurement reform

Report of the Secretary-General

Corrigendum

Paragraph 17

Replace the paragraph with the text below, and renumber the subsequent paragraphs accordingly.

98-34378 (E) 121198

17. The Secretary-General understands the thrust of the policy under consideration to be that vendors from Member States that are current in the payment of their assessed contributions may be accorded a preference over equally qualified vendors from Member States in arrears. The application of such a policy would not result in the exclusion of any vendors from participating in procurement opportunities per se, but rather would affect the basis for the award of contracts. In accordance with the Financial Regulations and Rules of the United Nations, an award of contract would normally be made following unrestricted competition and on the basis of quality and price, that is, to the lowest acceptable bidder.

18. In response to the request of the General Assembly, a survey has been undertaken of the other organizations of the United Nations system, the international financial institutions and the European Union, to examine whether any of them apply such a policy. The results of the survey are as follows:

(a) Other United Nations organizations do not have a stated policy to apply such a preference or, alternatively, to apply a sanction declaring vendors from any Member State ineligible to participate in procurement opportunities by virtue of the failure of that Member State to meet its financial obligations of membership. All United Nations organizations, however, exclude from procurement opportunities the vendors of countries that are under sanctions imposed by the General Assembly or the Security Council;

(b) Likewise, the international financial institutions have no stated policies of preference or ineligibility based on status of contributions to the general funding of those institutions. The International Development Association (IDA) of the World Bank group, however, has temporarily established a special exclusionary policy for one of its funds, owing to the failure of a member to meet its contribution for fiscal year 1997. With respect to IDA interim trust fund activities only and for the three-year period only (its fiscal years 1997–1999), IDA issued a policy, published on its Web page, to the effect that procurement would be limited to contributing donors to the interim trust fund and to IDA/IBRD borrowers. A list of ineligible, non-contributing member countries is then provided. The policy states that "the exclusion applies to nationals and bidders from ineligible countries as well as to bidders offering goods and services sourced from ineligible countries." All international financial institutions exclude from procurement opportunities the vendors of countries that are under sanctions imposed by the General Assembly or the Security Council;

(c) The European Union does to have a stated policy of preference or ineligibility concerning procurement among its members.

19. In May 1995, in the High-level Open-ended Working Group on the Financial Situation of the United Nations issued a paper (WGFS/12) containing a legal opinion of the Under-Secretary-General for Legal Affairs that the Secretary-General considers relevant to this issue. In response to a position paper submitted to the Working Group by the European Union, containing a proposal on limiting the amount of procurement of goods and services from countries in arrears, the Legal Counsel stated:

> "In theory, nothing could prevent the General Assembly from directing the Secretary-General to proceed as suggested in this part of the position paper. However, the introduction of new evaluation elements other than quality and price would represent a major departure from the spirit of the Financial Regulations and the established procurement procedures. Unless this is done through appropriate legislative action, awards of contract on the basis of factors other than price and quality could lead to bid protests and disputes. Bidders must be aware how a public institution will assess bids. Thus, the Assembly will have to determine in advance the precise weight to be given to the nationality of bidders from countries in arrears for awarding contracts. If its is intended that a bidder from a punctual Member State may be preferred over bidders from Member States in arrears (even if these offer better quality for better price), it would seem necessary to establish a range of price variation above the lowest acceptable bidder within which the decisive criterion would be the nationality of the bidder (for example, a higher bidder may be selected in no more than x% above the lowest acceptable bidder). This rule would be part of every Request for Proposal so that no bidder could complain."

20. The Legal Counsel indicated that, in the event the General Assembly should decide to adopt such a policy of preference, then this should be done through an amendment to regulation 10.5 of the Financial Regulations and Rules of the United Nations.